

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

LONNIE ANDERSON, and
JACQUI SHIMMIN,

Plaintiffs,

6:14-cv-01354-TC

v.

FINDINGS AND
RECOMMENDATION

WALTER BEGLAU, et al.,

Defendants.

COFFIN, Magistrate Judge.

By Order (#5) entered September 9, 2014, plaintiffs' *pro se* complaint was dismissed for failure to state a claim and plaintiffs were allowed 30 days to file an amended complaint. Among the reasons for dismissing the complaint was that the only named defendants were prosecutors for Marion County and plaintiffs' allegations appeared to relate to defendants' conduct in their capacities as prosecutors.

Plaintiffs were advised prosecutors are absolutely immune from liability for their prosecutorial functions. Imbler v. Pachtman, 424 U.S. 409, 430 (1976); Babcock v. Tyler, 884 F.2d 497, 501 (9th Cir. 1989).

By letter dated September 21, 2014 (#7), plaintiffs filed an "amendment to [their] previous filing." The amendment does not cure the pleading deficiencies set forth in the court's order and sheds little light on factual basis of plaintiffs' claim.

However, I take judicial notice that in August, 2012, plaintiffs were charged by Marion County for having dangerous or nuisance dogs. Some of the counts were later dismissed and plaintiffs were acquitted of others. Plaintiffs subsequently sued Marion County for putting some of the animals to death.

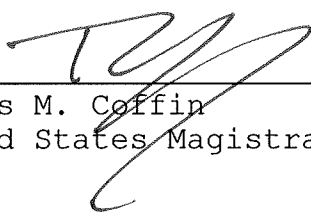
Plaintiffs' claims in this case apparently arise out of those incidents. As with plaintiffs' Complaint (#1), the allegations in the Amendment (#7) concern only "Walter M. Beglau et al - the District Attorney of Marion County - and his staff, Jean Kunkle, Amy Queen and Katherine Yancy. (#7) p. 1. These allegations can only be construed as against the defendants in their roles as prosecutors. Accordingly, defendants are absolutely immune from liability in damages.

Plaintiffs' Complaint (#1) as amended by (#7) fails to state a claim and should be dismissed *sua sponte*. The Clerk

of the Court should be directed to enter a judgment dismissing this action with prejudice.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 6 day of October, 2014.



Thomas M. Coffin
United States Magistrate Judge